



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location –

**The Westin Los Angeles Airport Hotel
5400 West Century Boulevard
Midway Room
Los Angeles, CA 90045**

Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location –

The Westin Los Angeles Airport Hotel
5400 West Century Boulevard
Day 1: Rm 385 / Day 2: Midway Room
Los Angeles, CA 90045

Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – FEBRUARY 5-6, 2007

TWO DAY FULL BOARD MEETING MINUTES¹

DAY ONE – FEBRUARY 5, 2007

CLOSED SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Sean Harrigan, President
Anne Sheehan, Vice President
Maeley Tom, Member
Patricia Clarey, Member

2. EMPLOYEE PERSONNEL MATTER

Deliberation to consider the appointment and employment of Executive Officer candidates. [Government Code section 1126(a)(1).]

A D J O U R N M E N T

¹ The Minutes for the Board Meeting can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

DAY TWO – FEBRUARY 6, 2007

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Sean Harrigan, President
Anne Sheehan, Vice President
Maeley Tom, Member
Patricia Clarey, Member

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

- A.** Mary Fernandez reported that SPB and DPA have established a vision for HR Reform and will be presenting it to the Board in an upcoming meeting.
- B.** SPB will be participating in a joint orientation hearing on February 14, 2007, for the members of the Assembly Public Employees', Retirement and Social Security Committee and the Senate Public Employment and Retirement Committee. SPB will be presenting an overview of its history, structure, purpose, and function.
- C.** The Chief Counsel will discuss some issues involving the CDCR Receivership in executive session.

3. REPORT OF THE CHIEF COUNSEL – Elise Rose

- The Board Staff was invited to and did meet with the legislative staff of budget subcommittee to discuss SPB's role in the Plata litigation.
- The Board will discuss Plata litigation in closed session.
- The Chief Counsel has been invited to speak at the Department of Personnel Administration on issues related to the Copley case which found peace officer personnel records housed at an administrative agency to be confidential.

4. NEW BUSINESS

Items were raised by Board Members for scheduling and discussion for future meetings.

- The Full Board Meeting originally scheduled for March 6-7, 2007, in Sacramento, has been changed to a one day board meeting to be held on Friday, March 2, 2007.

- The Full Board Meeting originally scheduled for April 3-4, 2007, has been tentatively rescheduled to April 2-3, 2007. A definitive date will be announced when a schedule has been established.

5. REPORT ON LEGISLATION – Sherry Evans

- AB 67 – Dymally.
The SPB staff met with advocates to discuss possible amendments to the SPB sponsored legislation.
- Other legislation issues – The Board staff were invited to appear at a joint orientation hearing for the members of the Assembly Public Employees' Retirement and Social Security committee and the Senate Public Employment and Retirement Committee on February 14, 2007, at the State Capitol. The purpose is to provide the members with the scope of legislation that will be presented.

6. ORAL ARGUMENT

In the matter of **CASE NO. 05-0053A**. Appeal from dismissal.
Park Maintenance Assistant. Department of Parks and Recreation.

Persons Participating:

Doug Purdy, Staff Counsel III, Department of Parks and Recreation, representing department.

Jeffrey R. Boxer, Attorney, Law Offices of Levy, Stern & Ford, representing appellant.

Finn J. Pette, Business Representative, Operating Engineers Local 501, representing appellant.

ACTION: SUBMITTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

7. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

8. STAFF SERVICES ANALYST EXAMINATION: WHERE WE HAVE BEEN AND WHERE WE ARE GOING

SPB staff provided historical information regarding testing strategies for the Staff Services Analyst classification, current challenges, and suggestions for future improvements.

ACTION: The Board directed staff to prepare a proposal and timeline for future improvements.

9. CHIEF ADMINISTRATIVE LAW JUDGE, SPB (CEA)

The Executive Officer requests that the Board consider the pros and cons and render a decision regarding the establishment of a Chief Administrative Law Judge, SPB (CEA) position.

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

CLOSED SESSION OF THE STATE PERSONNEL BOARD

10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

11. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]
(See Action Taken on Pages 11-16)

12. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

Patrick McCollum v. State of California
United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.
Case No. C01-1351 TEH

13. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

NO ACTION

14. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

NO ACTION

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

**15. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF
FEBRUARY 20, 2007, IN SACRAMENTO, CALIFORNIA**

NONE

BOARD ACTIONS:

**16. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF
JANUARY 9, 2007**

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

17. EVIDENTIARY CASES

ACTION: See Case Listings on Page 11–19

18. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION – (See Minutes on Pages 26–27)

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

19. NON-EVIDENTIARY CASES

ACTION: See Case Listings on Page 19–22

20. NON-HEARING CALENDAR

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

- A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.**

NONE

- B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following classifications which have been vacant for more than two years and have been designated Footnote 24, which specifies that a classification will be abolished when it becomes vacant.

NONE

21. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

FINANCE PROGRAM EVALUATOR

The Department of Finance (DOF) has proposed revisions to the Finance Program Evaluator Series.

ACTION: NOTED

22. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

CHIEF, PROVIDER ENROLLMENT DIVISION, MEDICAL SERVICES DIVISION (MCS)

The Department of Health Services proposes to allocate the above position to the CEA category. The Chief, Provider Enrollment Division is the principal policy-maker and advisor to the Deputy Director and Assistant Deputy Director, MCS regarding issues with significant policy impact on providers to the citizens, and amongst various beneficiary and provider groups.

DEPUTY DIRECTOR, UNEMPLOYMENT INSURANCE MODERNIZATION (UIMOD) PROJECT

The California Health and Human Services Agency, Office of Systems Integration (OSI) requests approval to allocate the above position to the CEA category on a permanent basis. The Deputy Director, UIMOD was approved by SPB to the CEA category for a limited term of two years effective March 4, 2004. The Deputy Director, UIMOD is responsible for advising and assisting the Director in formulating, implementing and administering policies for the UIMOD Project.

CHIEF INFORMATION OFFICER

The Department of Technology Services (DTS) proposes to allocate the above position to the CEA category. The Chief Information Officer provides vision, recommends policy setting strategies and directs efforts to continually ensure that all departmental systems and tools necessary to cost effectively support the delivery of DTS services to its customer base are maintained, upgraded and evolve to meet the changing demographics of service demands and mix.

DEPUTY DIRECTOR, OPERATIONS DIVISION

The Department of Child Support Services (DCSS) proposes to allocate the above position to the CEA category. The Deputy Director, Operations Division is responsible for the effective formulation, implementation and evaluation of all operational policies and procedures pertaining to the department's statewide child support collections and disbursement activities.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

CHIEF COUNSEL

The Public Utilities Commission, Division of Ratepayer Advocate's proposal to allocate the above position to the CEA category was approved effective January 8, 2007.

ASSISTANT EXECUTIVE OFFICER, SURFACE WATER PROGRAMS

The State Water Resources Control Board's request on behalf of the Regional Water Quality Control Board, San Francisco, to allocate the above position to the CEA category was approved effective January 8, 2007.

ASSISTANT EXECUTIVE OFFICER, GROUNDWATER AND ADMINISTRATIVE SERVICES PROGRAMS

The State Water Resources Control Board's request on behalf of the Regional Water Quality Control Board, San Francisco, to allocate the above position to the CEA category was approved effective January 8, 2007.

CHIEF, OFFICE OF PERFORMANCE IMPROVEMENT AND LONG TERM PLANNING

The Department of Toxic Substances Control has withdrawn the proposal to allocate the above position to the CEA category effective January 12, 2007.

CHIEF, BENEFITS AND RATES DIVISION, MEDICAL CARE SERVICES (MCS)

The California Department of Health Service's request to allocate the above position to the CEA category has been approved effective January 16, 2007.

CHIEF, OFFICE OF HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE (OHC)

The California Department of Health Service's request to allocate the above position to the CEA category has been approved effective January 16, 2007.

CHIEF, MEDICAL ELIGIBILITY DIVISION

The California Department of Health Service's request to allocate the above position to the CEA category has been approved effective January 16, 2007.

CHIEF, HOSPITAL AND FEDERAL CLAIMING DIVISION

The California Department of Health Service's request to allocate the above position to the CEA category has been approved effective January 16, 2007.

ACTION: NOTED

23. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

24. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE

25. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE

26. BOARD ACTIONS ON SUBMITTED ITEMS

ACTION: See Minutes on Pages 23–25

CLOSED SESSION OF THE STATE PERSONNEL BOARD

27. EMPLOYEE PERSONNEL MATTER

Deliberation to consider the appointment and employment of Executive Officer candidates. [Government Code section 1126(a)(1).]

A D J O U R N M E N T

**WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 17 – 19
AS NOTED.**

17. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On February 6, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

(1) CASE NO. 05-3030A

Appeal from constructive demotion

Classification: Officer Technician

Department: Department of Developmental Services

Proposed decision rejected May 2, 2006.

Oral argument heard October 31, 2006.

Case ready for decision by FULL Board.

ACTION: The Board issued a non-precedential decision dismissing appellant's appeal from constructive demotion. The Board also, however, instructed Board staff to examine appellant's work history to determine if changes need to be made to appellant's official employment history.

(2) CASE NO. 06-1433

Appeal from official reprimand

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

NO ACTION

(3) CASE NO. 05-1875A

Appeal from rejection during probationary period

Classification: Equipment Material Specialist

Department: Department of Transportation

Proposed decision rejected August 8, 2006.

Oral argument heard October 31, 2006.

Case ready for decision by FULL Board.

ACTION: The Board issued a non-precedential decision dismissing appellant's appeal from rejection during probation.

(4) CASE NO. 05-1567A

Appeal from dismissal

Classification: Housing Finance Specialist (General)

Department: California Housing Finance Agency

Proposed decision rejected July 11, 2006.

Oral argument heard December 5, 2006.

Case ready for decision by FULL Board.

NO ACTION

(5) CASE NO. 06-1310

Appeal from 14 working days suspension

Classification: Regional Administrator

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

NO ACTION

(6) PSC NO. 06-02

Appeal from Executive Officer's June 28, 2006 approval of the Department of Corrections and Rehabilitation Personal Services Contracts for Psychological Services.

Department: Department of Corrections and Rehabilitation

Employee Organization: AFSCME, Local 2620, AFL-CIO

Oral argument heard January 9, 2007.

Case ready for decision by FULL Board.

NO ACTION

(7) PSC NO. 06-04

Appeal from Executive Officer's August 15, 2006 disapproval of a Personal Services Contract for Hearing Reporter Transcription Services.

Department: California Air Resources Board

Oral argument heard January 9, 2007.

Case ready for decision by FULL Board.

NO ACTION

B. CASES PENDING

ORAL ARGUMENTS

This case was on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

On February 6, 2007, the Board took the following action on the case listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

(1) CASE NO. 05-0053A

Appeal from dismissal

Classification: Park Maintenance Assistant

Department: Department of Parks and Recreation

ACTION: SUBMITTED

C. CHIEF COUNSEL RESOLUTIONS

On February 6, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

(1) CASE NO. 06-0892

Appeal from suspension

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation
Request to Vacate Stipulated Agreement.

ACTION: The Board issued a resolution denying appellants request to set aside the stipulation for settlement entered into between appellant and the Department of Corrections and Rehabilitation, and approved by the Board's delegate.

(2) CASE NO. 04-0661

Appeal from dismissal

Classification: Business Taxes Compliance Specialist

Department: Department of Equalization

Request for Order to Show Cause Against the Board of Equalization.

ACTION: The Board issued a non-precedential decision denying appellants request for an Order to Show Cause against the Board of Equalization.

COURT REMANDS

NONE

STIPULATIONS

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On February 6, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

(1) CASE NO. 06-3021

Appeal from 20 working days suspension

Classification: Officer

Department: Department of California Highway Patrol

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.

(2) CASE NO. 06-1635

Appeal from dismissal

Classification: Transportation Engineer (Civil)

Department: Department of Transportation

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.

- (3) **CASE NO. 04-0282**
Appeal from demotion
Classification: Associate Tax Auditor
Department: Board of Equalization
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the demotion.
- (4) **CASE NO. 06-2620**
Appeal from ten percent reduction in salary for 24 months
Classification: Psychiatric Technician
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision modifying the reduction in salary, except for that portion that found that appellant did not retaliate against the person who filed a complaint against her.
- (5) **CASE NO. 06-2794**
Appeal from 49 workday's suspension
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.
- (6) **CASE NO. 06-2097**
Appeal from ten percent reduction in salary for six months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary, except for that portion that found that appellant's unexcused absences did not constitute discourteous treatment of other employees.
- (7) **CASE NO. 05-3783**
Appeal from 20 working days suspension
Classification: Motor Vehicle Field Representative
Department: Department of Motor Vehicles
ACTION: The Board adopted the ALJ's Proposed Decision modifying the suspension.

Proposed Decisions Taken Under Submission At Prior Meeting

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On February 6, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

(1) CASE NO. 06-0822P

Appeal from dismissal

Classification: Transportation Engineer (Civil)

Department: Department of Transportation

ACTION: Petition for rehearing denied.

(2) CASE NO. 00-3394

Appeal from dismissal

Classification: Instructional Computing Consultant II

Department: San Diego State University

ACTION: Petition for rehearing denied.

WHISTLEBLOWER NOTICE OF FINDINGS

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On February 6, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

- (1) **CASE NO. 05-1007EA**
Appeal from denial of discrimination complaint
Classification: Outside contractor
Department: Department of Transportation

Proposed decision rejected December 19, 2006.

NO ACTION
- (2) **CASE NO. 05-0053A**
Appeal from dismissal
Classification: Park Maintenance Assistant
Department: Department of Parks and Recreation

Proposed decision rejected October 10, 2006.
Oral argument heard February 5-6, 2007, Los Angeles.

ACTION: SUBMITTED
- (3) **CASE NO. 06-0760A**
Appeal from rejection during probation
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections and Rehabilitation

Proposed decision rejected November 14, 2006.
Oral argument originally set February 5-6, 2007, Los Angeles.
Oral argument continued.

NO ACTION
- (4) **CASE NO. 06-0235A**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

Proposed decision rejected January 9, 2007.
Pending transcript.

NO ACTION
- (5) **CASE NO. 05-2211A**
Appeal from dismissal
Classification: Senior Tax Compliance Representative
Department: Employment Development Department

Proposed decision rejected September 20, 2006.
Oral argument originally set February 5-6, 2007, Los Angeles.
Continued to March 6-7, 2007, Sacramento.

NO ACTION

(6) CASE NO. 05-2888PA

Appeal from dismissal

Classification: Staff Services Analyst (General)

Department: Department of Consumer Affairs

Petition for rehearing granted October 31, 2006.

Pending oral argument March 6-7, 2007, Sacramento.

NO ACTION

(7) CASE NO. 05-1285A

Appeal from dismissal

Classification: Public Safety Dispatcher II

Department: Department of California Highway Patrol

Proposed decision rejected January 9, 2007.

Pending transcript.

NO ACTION

(8) CASE NO. 05-1067A

Appeal from dismissal

Classification: Investigator

Department: Department of Motor Vehicles

Proposed decision rejected January 9, 2007.

Pending transcript.

NO ACTION

(9) CASE NO. 04-2919ERPA

Appeal of discrimination and retaliation

Classification: Physician and Surgeon

Department: Department of Corrections and Rehabilitation

Petition for rehearing granted September 20, 2006.

Oral argument originally set February 6-7, 2007, Los Angeles.

Oral argument continued.

NO ACTION

(10) CASE NO. 05-0927BA

Appeal for back salary determination

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Proposed decision rejected December 5, 2006.

Transcript prepared.

NO ACTION

(11) CASE NO. 05-4416PA

Appeal from 10 percent reduction in salary for 13 pay periods

Classification: Medical Technical Assistant (Correctional Facility)

Department: Department of Corrections and Rehabilitation

Petition for rehearing granted November 14, 2006.

Transcript prepared.

NO ACTION

(12) CASE NO. 06-0392A

Appeal of five percent reduction in salary for 24 months

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision rejected October 31, 2006.

Transcript prepared.

Pending oral argument March 6-7, 2007, Sacramento.

NO ACTION

19. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On February 6, 2007, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

(1) CASE NO. 05-3635

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Issue: Suitability; firearms restriction.

ACTION: DENIED

- (2) **CASE NO. 05-3645**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; a felony conviction.
ACTION: DENIED
- (3) **CASE NO. 05-2200**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; a felony conviction.
ACTION: DENIED
- **CASE NO. 06-2603N**
Classification: Youth Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: DISMISSED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases were heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board was presented recommendations by a Hearing Panel on each appeal.

On February 6, 2007, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

- (1) **CASE NO. 05-1969**
Classification: Communications Operator
Department: Department of Parks & Recreation
Issue: The SPB State Medical Officer finds the appellant's hearing does not meet the hearing standards required to perform the duties of the job without reasonable accommodation.
ACTION: GRANTED
- **CASE NO. 06-2720N**
Classification: Highway Patrol Officer
Department: California Highway Patrol
ACTION: DISMISSED
- **CASE NO. 06-3031N**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: DISMISSED

- **CASE NO. 06-1967**
Classification: Special Agent, DOJ
Department: Department of Justice
ACTION: DISMISSED
- **CASE NO. 04-1855N**
Classification: Fire Fighter I
Department: Forestry and Fire Protection
ACTION: DISMISSED
- **CASE NO. 06-3973N**
Classification: Highway Patrol Officer
Department: California Highway Patrol
ACTION: DISMISSED

C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS

NONE

D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS

Cases were heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board was presented recommendations by a Staff Hearing Officer for final decision on each appeal.

On February 6, 2007, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

RULE 211 APPEALS

- (1) CASE NO. 06-0706N**
Classification: Employment Program Representative
Department: Employment Development Department
Issue: Pursuant to Rule 211, the appellant is requesting approval from the SPB's Executive Officer to take State examinations after having been dismissed from State service.
ACTION: DENIED

(2) CASE NO. 05-4224

Classification: California State Civil Service Examinations

Department: State Personnel Board

Issue: Pursuant to Rule 211, the appellant is requesting approval from the SPB's Executive Officer to take State examinations after having been dismissed from State service.

ACTION: GRANTED

RULE 212 OUT OF CLASS APPEALS

NONE

VOIDED APPOINTMENT APPEALS

(3) CASE NO. 05-2860

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Issue: Was the appointment of the appellant properly voided based on the fact that the appellant did not have eligibility to transfer to CS at CDCR.

ACTION: DENIED

E. REQUEST TO FILE CHARGES CASES

NONE

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. CASE NO. 05-3030A

Appeal constructive demotion. Office Technician. Department of Developmental Services. (Oral argument held October 31, 2006.)

ACTION: The Board issued a non-precedential decision dismissing appellant's appeal from constructive demotion. The Board also, however, instructed Board staff to examine appellant's work history to determine if changes need to be made to appellant's official employment history.

7. CASE NO. 05-1875A

Appeal from rejection during probationary period. Equipment Material Specialist. Department of Transportation. (Oral argument held October 31, 2006.)

ACTION: The Board issued a non-precedential decision dismissing appellant's appeal from rejection during probation.

8. CASE NO. 05-0947A

Appeal from dismissal. Housing Finance Specialist (General). California Housing Finance Agency. (Oral argument held December 5, 2006.)

NO ACTION

9. CASE NO. 06-1814

Appeal from official letter of reprimand. Correctional Officer. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

NO ACTION

10. CASE NO. 06-1310

Appeal from 14 working days' suspension. Regional Administrator. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

NO ACTION

11. CASE NO. 05-1975

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

12. CASE NO. 05-1466

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

13. CASE NO. 05-1977

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

14. CASE NO. 05-1029

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

15. CASE NO. 05-2290

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

16. CASE NO. 05-1169

Correctional Officer. Department of Corrections and Rehabilitation. Suitability; whether appellant's name was properly withheld for one DUI conviction. (Presented to Board December 5, 2006.)

NO ACTION

17. CASE NO. 05-1681

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

18. CASE NO. 05-1170

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

19. PSC NO. 06-02

Appeal of AFSCME, Local 2620, AFL-CIO, from the Executive Officer's June 28, 2006, Approval of the Department of Corrections and Rehabilitation Personal Services Contracts for Psychological Services. (Oral argument held January 9, 2007.)

NO ACTION

20. PSC NO. 06-04

Appeal of California Air Resources Board, from the Executive Officer's August 15, 2006, Disapproval of a Personal Services Contract for Hearing Reporter Transcription Services. (Oral argument held January 9, 2007.)

NO ACTION

21. CASE NO. 05-0053A

Appeal from dismissal. Park Maintenance Assistant. Department of Parks and Recreation. (Oral argument held February 6, 2007.)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

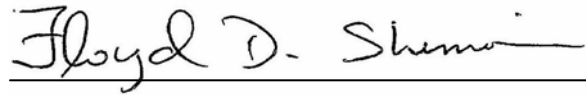
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on February 5-6, 2007.

VOTE: Harrigan, Sheehan, Tom, Clarey – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura", written over a horizontal line.

Floyd Shimomura
Executive Officer
California State Personnel Board